

AN ORDINANCE DEFINING NUISANCES; PROHIBITING SAME; PROVIDING FOR THEIR
ABATEMENT; AND PROVIDING PENALTIES;

THE CITY OF ELGIN does ordain as follows:

Section 1. Definitions.

(1) Person. A natural person, firm, partnership, association, or corporation.

(2) Person in charge of property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

(3) Person responsible. The person responsible for abating a nuisance shall include:

(a) The owner.

(b) The person in charge of property as defined in subsection (2).

(c) The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.

(4) Public place. A building, way, place, or accommodation, whether publicly or privately owned, open and available to the general public.

Animals

Section 2. Dangerous Animals.

(1) No owner or person in charge of an animal which is dangerous to the public health or safety shall allow the animal to be exposed in public.

(2) A dangerous animal exposed in public may be taken into custody by the police and disposed of in accordance with the procedures provided for by ordinance for the impoundment and disposition of dogs, except that before the animal is released by the city, the municipal judge must find that proper precautions will be taken to insure the public health and safety.

(3) A dangerous animal running at large, which because of fierceness of disposition or diseased condition is too hazardous to apprehend may be destroyed by a peace officer or by a person acting in defense of himself, his family, or another person.

Section 3. Livestock and Poultry.

(1) No owner or person in charge of property shall allow a domestic animal, including livestock and poultry, to run at large within the corporate limits of the city or to be within a park owned by the city.

(2) It shall be unlawful for any owner or person, firm, or corporation having control of a horse, cow, mule, sheep, goat, rabbit or any other like domestic animal or a fowl or bird to permit the animal or fowl to trespass upon private property within the City of Elgin.

(3) Any horse, cow, mule, sheep, goat, rabbit or other like domestic animal or a fowl or bird shall be properly caged, housed, and maintained in a sanitary condition at all times. All animal or poultry grain foods shall be stored in metal or other rodent-

1 proof receptacles. All accumulations of manure or bedding materials soiled by animal wastes
2 in or about every stable, corral, or enclosure where an animal is kept shall be collected at
3 least once each week and immediately deposited in fly-tight containers and disposed of in
4 such a manner to eliminate fly breeding and nuisance conditions.

5 Section 4. Removal of Carcasses. No person shall permit an animal carcass owned or
6 controlled by him to remain upon public property, or to be exposed on private property, for a
7 period of time longer than 24 hours.

8 Nuisances Affecting Public Health

9 Section 5. Nuisances Affecting Public Health. No owner or person in charge of
10 property shall cause or permit on such property any nuisance affecting public health, nor shall
11 any person cause on any property, public or private, any nuisance affecting public health. The
12 following are nuisances affecting public health and may be abated as provided in this ordinance.

13 (1) Debris. An accumulation of decomposed animal or vegetable matter,
14 garbage, rubbish, manure, offal, ashes, discarded containers, waste, paper, debris, trash,
15 hay, grass, straw, weeds, litter, or other refuse matter or substance which by itself or in con-
16 junction with other substances is deleterious to public health or comfort, or is unsightly, or
17 creates an offensive odor.

18 (2) Stagnant water. An accumulation of stagnant or impure water which
19 affords or might afford a breeding place for mosquitoes or other insects.

20 (3) Noxious weeds. A growth of Russian thistle, Canadian thistle, Chinese
21 thistle, white mustard, cocklebur, silver saltbush, fox tail, or any other noxious weed, and all
22 grass over 10 inches in height.

23 (4) Animal carcasses. The deposition of an animal carcass or part thereof,
24 or any excrement or sewage, or industrial waste, or any putrid, nauseous, decaying deleterious,
25 offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river or other
26 inland waters within the city, or the placing of such substances in such position that high water
27 or natural seepage will carry the same into such waters.

28 (5) Privies. An open vault or privy except those constructed or maintained
29 in connection with construction projects in accordance with the Oregon State Board of Health
30 regulations.

31 (6) Surface drainage. Drainage of liquid wastes from private premises.

32 (7) Cesspools. Cesspools or septic tanks which are in an unsanitary condition
33 or which cause an offensive odor.

34 (8) Food. Decayed or unwholesome food which is offered for human con-
35 sumption.

36 (9) Odors. Premises which are in such a state or condition as to cause an
37 offensive odor or which are in an unsanitary condition.

38 (10) Slaughterhouses. A pigsty, slaughterhouse, or tannery.

39 (11) A barn, stable, corral, pen, chicken coop, rabbit hutch, or other
40 place where animals are caged or housed which is in an unsanitary condition or creates a
41 noisome or offensive odor.

42 (12) Water. The suffrance or allowance by the owner or person in charge of
43 property that water from a ditch, canal, flume, reservoir pipe line, or conduit above or below
44 ground should leak, seep, flow, overflow, run back or through, or escape or run upon, over
45 Two

1 or under any premises, public street, alley, sidewalk, or other public property, which would
2 endanger the public health, safety, welfare, or convenience.

3 Nuisances Affecting Public Safety

4 Section 6. Abandoned Refrigerators. No person shall leave in any place accessible
5 to children an abandoned or discarded ice box, refrigerator, or similar container without first
6 removing the door.

7 Section 7. Attractive Nuisances.

8 (1) No owner or person in charge of property shall permit thereon:

9 (a) Unguarded machinery, equipment, or other devices which are
10 attractive, dangerous, and accessible to children.

11 (b) Lumber, logs, or pilings placed or stored in a manner so as to be
12 attractive, dangerous, and accessible to children.

13 (c) An open pit, quarry, cistern, or other excavation without safe-
14 guards or barriers to prevent such places from being used by children.

15 (2) This section shall not apply to authorized construction projects with
16 reasonable safeguards to prevent injury or death to playing children.

17 Section 8. Dangerous Excavations and Dangerous Buildings.

18 (1) Dangerous Excavations:

19 (a) No owner or person in charge of property shall allow an excavation to
20 remain unguarded by suitable barriers

21 (b) In addition to the barriers required by subsection (a) of this section,
22 excavations shall be marked by warning lights during the hours of darkness.

23 (c) An obstruction on a street, sidewalk, public way, or pathway commonly
24 used by the public shall be marked by warning lights during the hours of darkness. It shall
25 be the responsibility of the person creating, maintaining, or in charge of such obstruction to
26 insure the installation and operation of the warning lights.

27 (2) Dangerous Buildings.

28 (a) No owner of property shall allow to remain thereon any building
29 or structure which is or threatens to be a public nuisance, dangerous to the health, morals,
30 safety, or general welfare of the people of the City of Elgin, Oregon, or which might tend
to constitute a fire menace.

(b) If an owner of a dangerous building is directed, in accordance with
the provisions of this ordinance, to abate this nuisance by demolishing the dangerous
building, the demolition shall include the removal of the debris resulting from the process
of demolition and the premises on which the building is located shall, after demolition, be
left clean, neat, sanitary, orderly and safe. A building shall not be considered to have been
demolished until such debris shall have been removed and the premises left in the condition
in this paragraph stated.

Section 9. Snow and Ice Removal.

(1) No owner or person in charge of property shall allow snow to remain on
the sidewalk abutting his property for a period longer than the first six hours of daylight after

1 the snow has fallen.

2 (2) No owner or person in charge of property shall allow ice to remain on
3 the abutting sidewalk for more than two hours of daylight after the ice has formed unless
4 covered with ash, sand, or other suitable materials.

5 (3) No person shall place or deposit snow, except snow removed from public
6 sidewalks, on any parking strip or street.

7 Section 10. Trees.

8 (1) No owner or person in charge of abutting property shall allow any
9 brush, bushes, trees, limbs, shrubbery, flowers, or other growth, whether grown for food, fuel,
10 shade, or ornamentation, to project over a sidewalk at an elevation of less than 3 feet above
11 the level of the sidewalk or over a street at an elevation of less than 13 feet 6 inches above
12 the level of the street.

13 (2) No owner or person in charge of property shall allow to stand a dead or
14 decaying tree that is a hazard to the public or to persons or property on or near the property.

15 Section 11. Fences.

16 (1) No owner or person in charge of property shall construct or maintain a
17 barbed-wire fence along a sidewalk or public way.

18 (2) No owner or person in charge of property shall construct, maintain, or
19 operate an electric fence along a sidewalk or public way or along the adjoining property line
20 of another person.

21 Section 12. Unenumerated Nuisances.

22 (1) In addition to the acts and conditions specifically enumerated in this
23 ordinance, any condition, thing, substance, or activity which is detrimental to, injurious to,
24 or constitutes a danger to the public health, safety, or welfare is declared to be a nuisance
25 and is subject to the abatement procedures set forth in this ordinance.

26 (2) A condition, thing, substance, or activity declared to be a nuisance by
27 another ordinance of this city is subject to the abatement procedures of this ordinance if no
28 abatement procedures are provided by such ordinance.

29 Abatement Procedure

30 Section 13. Procedures.

(1) If the city council is satisfied that a nuisance exists, it shall cause a notice
to be posted on the premises or at the site of the nuisance directing the person responsible to
abate the nuisance.

(2) At the time of posting, the city recorder shall cause a copy of the notice
to be forwarded by certified mail, postage pre-paid, to the person responsible at his last
known address.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise,
on which the nuisance exists.

(b) A direction to abate the nuisance within 10 days from the date
of the notice.

(c) A description of the nuisance.

(d) A statement that unless the nuisance is removed, the city may abate the nuisances; and the cost of abatement charged to the person responsible.

(e) A statement that the person responsible may protest the order to abate by giving notice to the city recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting respectively.

(5) An error in the name or address of the person responsible shall not make the notice void and in such case the posted notice shall be sufficient.

Section 14. Abatement by the Person Responsible.

(1) Within 10 days after the posting and mailing of such notice as provided in Section 13, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the city council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council, and the council shall reconsider the matter and once again determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the council.

(4) If after reconsideration, the council once again concludes that a nuisance does in fact exist, the person responsible shall, within 10 days after the council's determination abate the nuisance.

Section 15. Abatement by the City

(1) If, within the time allowed, the nuisance has not been abated by the person responsible, the council may cause the nuisance to be abated.

(2) The person or persons selected by the council to abate the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of the nuisance.

(3) The city recorder shall keep an accurate record of the expenses incurred by the city in physically abating the nuisance and shall include therein a charge of \$10.00 or ten per cent (10%) of those expenses (whichever is the greater) for administrative overhead.

Section 16. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the cost incurred by the city in abating the nuisance.

Section 17. Assessment of Costs

(1) The city recorder, by registered or certified mail, postage pre-paid, shall forward to the person responsible a notice stating:

(a) The total costs of abatement including the administrative overhead.

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

(c) That if the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the city council in the regular course of business shall hear and determine the objections to the cost assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by the city council shall be made by resolution and shall thereupon be entered in the docket of city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 6 per cent per annum. The interest shall commence to run from date of the entry of the lien in the lien docket.

(5) An error in the name of the person responsible shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

General

Section 18. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to the procedure provided by other ordinances, and the health officer, the chief of the fire department, the fire marshall, the chief of police, or the city recorder may proceed summarily to abate a health or other nuisances which unmistakably exists and which imminently endangers human life or property.

Section 19. Penalties. A person violating a provision of this ordinance or an order issued under authority of this ordinance shall, upon conviction, be fined an amount not to exceed \$500.00.

Section 20. Separate Violations.

(1) Each day's violation of a provision of this ordinance constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of city council determination that a nuisance exists, will excuse the person responsible from the imposition of any fine under Section 19 of this ordinance.

Section 21. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

PASSED and ADOPTED this 8th day of December, 1981, by 7 council members voting therefor.

APPROVED this 8th day of December, 1981.

Russell Thayer
Mayor

106920

ATTEST:

Deborah A. Hilger
City Recorder

STATE OF OREGON
County of Union

I certify that the within instrument
of writing was received for record on
the 18th day of
NOV - 1982 at 8:30
o'clock A.M., and recorded on page
11 of 11 books. Record of

Deeds of said County,
SHIRLEY L. BOLIN
County Clerk

Barbara C. Baker
Deputy

1 AN ORDINANCE AMENDING ORDINANCE NO. 15, SERIES 1974
2
3 AN ORDINANCE DEFINING AND REGULATING GAMBLING IN THE CITY OF ELGIN;
4 PROVIDING FOR LICENSING AND FEES; PROVIDING PENALTIES FOR THE VIOLA-
5 TION THEREOF; AND, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN
6 CONFLICT HERewith.

7 THE CITY OF ELGIN does ordain as follows:

8 Section 1: PROHIBITION.

9 (1) No person shall participate in, operate or assist in operat-
10 ing any gambling game or activity, including a lottery. No person
11 shall have in his possession any property, instrument or device
12 designed or adapted for use in any type of gambling activity. Any such
13 property, instrument or device is a nuisance and may be summarily
14 seized by any police officer. Property so seized shall be placed in
15 the custody of the Chief of Police of the City of Elgin. Upon con-
16 viction of the person owning or controlling such property for a
17 violation of this section the Municipal Judge shall order such
18 property confiscated and destroyed.

19 Section 2: DEFINITIONS.

20 (1) The term "gambling" means that a person stakes or risks
21 something of value upon the outcome of a contest of chance or a
22 future contingent event not under his control or influence, upon an
23 agreement or understanding that he or someone else will receive
24 something of value in the event of a certain outcome. "Gambling"
25 does not include the following:

26 (a) Bona fide business transactions valid under the laws
27 of contracts for the purchase or sale at a future date of
28 securities or commodities, and agreements to compensate for loss
29 caused by the happening of chance, including but not limited to,
30 contracts of indemnity or guarantee, and life, health or
31 accident insurance.

32 (b) Engaging in contest of chance under the following

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1 conditions: The contest is played for some token other than
2 money; an individual contestant may not purchase more than
3 \$10.00 worth of tokens for use in the contest during any
4 twenty-four (24) hour period; the tokens may be exchanged only
5 for property other than money; except where the tokens are
6 exchanged for a beverage or merchandise to be consumed on the
7 premises, the tokens are not redeemable on the premises where
8 the contest is conducted or within fifty (50) miles thereof;
9 and, except for charitable organizations, no person who con-
10 ducts a contest as owner, agent or employee profits in any
11 manner from operation of the contest. "Charitable organization"
12 means any person organized and existing for charitable,
13 benevolent, eleemosynary, humane, patriotic, religious,
14 philanthropic, recreational, social, educational, civic,
15 fraternal or other non-profit purposes. The fact that con-
16 tributions to an organization profiting from the contest do not
17 qualify for charitable deductions for tax purposes or that the
18 organization is not otherwise exempt from payment of federal
19 income taxes pursuant to the Internal Revenue Code of 1954, as
20 amended, constitutes prima facie evidence that the organization
21 is not a bona fide charitable organization.

22 (c) Social Games. The term "Social Games" means:

- 23 1. A game, other than a lottery, between players in
24 a private home where no house player, house bank or house
25 odds exist and there is no house income from the operation
26 of the social game; and
27 2. A game, other than a lottery, between players in
28 a private business, private club or place of public
29 accommodation where no house player, house bank or house
30 odds exist and there is no house income from the operation
31 of the social game.
32

1 Section 3: LICENSE REQUIRED FOR SOCIAL GAMES.

2 (1) From and after this date, it shall be unlawful for any
3 private business, private club or place of public accommodation to
4 maintain or conduct, or cause to be engaged in, carried on, maintained
5 or conducted, any social game in the City of Elgin without having a
6 valid license from said City. Licenses shall be granted only to
7 persons of ascertained good moral character and upon approval of the
8 City Council. Holders of existing licenses must make application
9 under this ordinance within thirty (30) days of its passage.

10 Section 4: APPLICATION FOR LICENSE.

11 (1) Applications for license issued hereunder shall be made
12 upon blank forms prepared and made available by the Chief of Police
13 and shall state:

14 (a) The full name, age, residence, present and previous
15 occupations of all persons financially interested in the
16 business.

17 (b) The past criminal record, if any, of all persons who
18 may have interest in the business.

19 (c) A specific description of the location of the principal
20 place of business of the applicant.

21 (d) Such other information as the Chief of Police shall
22 find reasonably necessary to effectuate the general purpose of
23 this ordinance and to make a fair determination of whether the
24 terms hereof have been complied with.

25 (2) The application required shall be accompanied by an
26 application fee of \$50.00.

27 (3) Within fifteen (15) days after receipt of any application
28 as provided for herein, the Chief of Police shall cause an investiga-
29 tion to be made of the applicant and his proposed operation.

30 Section 5: STANDARDS FOR ISSUANCE OF LICENSE.

31 (1) The Chief of Police shall investigate and determine if the
32 character, competency and integrity of the applicant are such as to

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1 command the confidence of the public, and if the applicant has ever
2 been convicted of any felony or misdemeanor involving moral turpitude.
3 Upon the determination of the above matters by the Chief of Police
4 he shall thereupon submit a written report of his findings to the
5 City Council of the City and recommend that the license be issued
6 or denied.

7 Section 6: NOTICE OF DENIAL OR REVOCATION.

8 (1) The Chief of Police shall act upon the application for
9 license within thirty (30) days after the filing thereof. If the
10 Chief of Police disapproves the application, he shall mail to the
11 applicant forthwith a notice of his action setting forth the
12 reasons for his adverse recommendation to the City Council. Any
13 person aggrieved shall have the right to appeal the recommendation
14 of the Chief of Police as to denial or revocation to the City
15 Council. The appeal shall be taken within ten (10) days after
16 receipt of notice, and shall be made by written notice to the
17 Council that the aggrieved appeals the denial or revocation of
18 said license. The City Council shall act upon the appeal within
19 forty (40) days after receipt of said notice of appeal, and its
20 action shall be final.

21 Section 7: ANNUAL LICENSE FEE.

22 (1) A license shall be issued to each successful applicant upon
23 payment of a license fee of \$ 180.00; except, however, a non-
24 profit society, club or fraternal organization having adopted by-laws
25 and duly elected directors and members may be granted a license for
26 an annual fee of \$ 180.00, when it appears that the social games
27 are for the exclusive use of members of the society, club or
28 fraternal organization and no charge is made for participation. The
29 society, club or fraternal organization shall have been in continuous
30 existence, actively conducting its affairs in the City of Elgin
31 for a period of two (2) years immediately preceding application for
32 a license, and only if the conduct of the social games is not the

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1 primary reason for the existence of the society, club or fraternal
2 organization.

3 Section 8: CONDITIONS OF LICENSING.

4 (1) Transferability. Licenses issued hereunder shall not be
5 transferable.

6 (2) Revocation and Suspension. Licenses issued hereunder shall
7 be subject to revocation or suspension by the City Council for viola-
8 tion of any of the provisions of this ordinance or misconduct by the
9 licensee or his employees, after reasonable notice and an opportunity
10 to be heard has been given the licensee. The Chief of Police shall
11 give such notice.

12 (3) Renewal of Licenses. The City Recorder shall issue renewal
13 licenses to all licensees whose licenses have have not been suspended
14 at the time said licenses have expired, upon payment of the annual
15 license fee.

16 (4) Term of License. All licenses issued hereunder shall be
17 for a period of one year.

18 (5) Supervision. Each licensee shall have a person whose duty
19 shall be to supervise the social games and see to it that they are
20 played strictly in accordance with this ordinance and within the
21 provisions of the Oregon Revised Statutes.

22 (6) Time Periods. No licensee shall conduct social games
23 between the hours of 3:00 o'clock, a.m., and 7:00 o'clock, a.m., of
24 any day.

25 (7) Police Inspection. Premises on which social games are
26 operated shall be open to police inspection during all hours of
27 operation.

28 (8) Participation by Licensee. No licensee shall participate
29 in any social game nor procure players, back, farm out, assign or
30 sublet any social game lawfully permitted under this ordinance on
31 any premises in which said licensee has any interest or works.

32 (9) Age Limits. No person under the age of 18 shall be per-

mitted to participate in any social game or to enter or remain in any room in which such game is being played.

Section 9: REGULATIONS BY CHIEF OF POLICE.

(1) The Chief of Police shall have the authority to enact and enforce reasonable rules and regulations for the operation of social games in the interest of public safety, morals and welfare and to effectuate the general purpose of this ordinance.

Section 10: SUBSEQUENT REVOCATION.

(1) If at any time new facts arise or become known to the City Council which would be sufficient to warrant refusal or withholding of a license under the terms of this ordinance, the City Council shall notify the licensee through the Chief of Police of such facts and further inform the licensee that unless the same are satisfactorily explained and this ordinance forthwith complied with, the license shall be revoked.

Section 11: PENALTIES.

(1) In addition to the suspension or revocation of any license issued hereunder, any person, firm or corporation who violates any provisions of this ordinance or any rule or regulations lawfully promulgated in accordance herewith shall, upon conviction, be fined in an amount not to exceed \$300.00

Section 12: SAVINGS CLAUSE.

(1) If any section, sub-section, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, sub-section, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.

Section 13: REPEAL OF CONFLICTING ORDINANCES.

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